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PTO/SB/21 (09-04)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/924,428	
	Filing Date	August 7, 2001	
	First Named Inventor	Lei WU	
	Art Unit	1641	
	Examiner Name	C. Cheu	
Total Number of Pages in This Submission	8	Attorney Docket Number	471842000500

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form (1 page + duplicate) <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) (1 page) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Statement of the Substance of the Interview (4 pages) Return Receipt Postcard
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	MORRISON & FOERSTER LLP		
Signature			
Printed name	Michael G. Smith		
Date	April 5, 2006	Reg. No.	44,422

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 743886578 US, in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 5, 2006

Signature: (Norman Green)



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Dated: April 5, 2006

Signature: 

(Norman Green)

Docket No.: 471842000500  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Lei WU et al.

Application No.: 09/924,428

Confirmation No.: 3614

Filed: August 7, 2001

Art Unit: 1641

For: MICRODEVICE CONTAINING  
PHOTORECOGNIZABLE CODING  
PATTERNS AND METHODS OF USING AND  
PRODUCING THE SAME THEREOF

Examiner: C. Cheu

**STATEMENT OF THE SUBSTANCE OF THE INTERVIEW**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The applicant appreciates the courtesy of a telephonic interview with Examiner Cheu and Supervisory Examiner Le regarding the application referenced above. The interview was conducted on March 27, 2006. A summary of that interview, which complies with the requirements of MPEP 713.04, is provided herein. The applicant greatly appreciates the Examiner's time and assistance with this matter, and the quick delivery of a summary of the interview that was provided by Examiner Cheu.

This Statement is being submitted along with a NOTICE OF APPEAL in the subject application.

Substance of the Interview

(a) No exhibits or demonstrations were involved in the telephonic interview.

(b) Claim 1 was discussed: a proposed after final amendment was refused entry, and the discussion related to the basis for the amendment, justification for its entry, and how it distinguishes the claims from a particular cited reference.

(c) The particular reference discussed, referred to as Kaye, which is GB 2 306 484. The reference is entitled "Solid support particle marked with a machine-readable code for use in Combinatorial Chemistry Techniques." Kaye relates to "A solid support particle (preferably of silicon, silicon dioxide or a metal), adapted for use in Combinatorial Chemistry Techniques, [that] is marked with a machine-readable code." (From the Abstract of Kaye).

(d) The proposed amended claim 1, marked to show the proposed changes, is as follows:

1. (currently amended) A microdevice, which microdevice comprises:
  - a) a substrate;
  - b) a photorecognizable coding pattern on said substrate; and
  - c) a binding partner that is capable of binding to a moiety to be manipulated, wherein said photorecognizable coding pattern comprises a hole not penetrating through the entire depth of said substrate,  
and wherein said microdevice comprises a magnetic material, or said binding partner comprises a cell, a cellular organelle, a virus, or an antibody,  
and said microdevice has dimensions from about 0.01 micron to about several thousand microns, and does not comprise an anodized metal surface layer.

The amendment introduces two alternative limitations, each of which is based on a limitation in previously considered dependent claims. Each limitation alone is sufficient to distinguish the claimed subject matter from the cited reference, as was discussed during the

interview and in the response where entry of the amendment was requested. These two limitations were briefly discussed as grounds for rejection of dependent claims in the previous Office Action, and the applicant reiterated in the interview the reasons why the asserted rejections of those limitations should be reconsidered and withdrawn.

(e) Entry of the amendment was refused because it was said not to place the application in condition for allowance. In response, the applicant's representative pointed out that the basis for each rejection of dependent claims including those limitations was inadequate because the rejections were based on an incomplete technical consideration of the teachings in the reference: properly read, the reference does not disclose either of these limitations in combination with the claimed subject matter of claim 1. Accordingly, adding these limitations to claim 1 clearly distinguishes the claimed subject matter from the Kaye reference and places the claims in condition for allowance over all cited references.

The Examiner and the Supervisor agreed to fully consider the apparent differences, and to consider withdrawal of the anticipation rejections based on Kaye, upon submission of a written supplemental response. The Examiner specifically requested that the invited supplemental response should further address potential obviousness rejections that could be based on the Kaye reference.

(f) The Examiner also raised a question regarding a potential argument that the size limitation in claim 1 might be indefinite, where it refers to 'about several thousand microns'. Accordingly, the Examiner invited arguments and/or amendments related to that claim limitation.

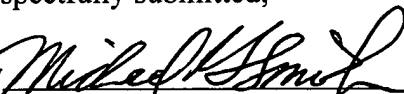
(g) No agreement was reached regarding the allowability of the claims; however, the applicant understood that the claim amendments could be entered and considered upon submission of the invited supplemental response. The supplemental response should particularly focus on a potential obviousness rejection over Kaye, and should also address the size limitation in claim 1. Accordingly, the applicant has submitted a supplemental response, which was filed on March 29, 2006, addressing each of the outstanding issues.

**Conclusion**

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 471842000500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 5, 2006

Respectfully submitted,

By   
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